

Course title: Gender-based violence and International Protection of Human Rights

Language of instruction: English

Professor: Patsilí Toledo

Professor's contact and office hours: Mondays 10:00 – 11:00.

Course contact hours: 45

Recommended credit: 6 ECTS credits

Course prerequisites: There are no prerequisites for this course

Language requirements: Recommended level in the European Framework B2 (or equivalent : Cambridge Certificate if the teaching language is English, DELE or 3 semesters in the case of Spanish)

Course focus and approach:

The course focuses on the international responses to diverse forms of gender-based violence in various geographic and cultural contexts, from a human rights and intersectional perspective.

Course description: Gender-based violence (GBV), in particular, against women and LGBTIQ+ people, in its multiple manifestations, has been gaining attention worldwide as a serious human rights violation in the last decades. The course will review this historic evolution at the international level and analyze the most relevant instruments and mechanisms within the global and regional human rights' protection systems to address such violence. It will focus on diverse forms and contexts of GBV -including intimate partner violence, homophobic and transphobic violence, sexual crimes, gendered war crimes, etc.- and their interrelation with other multiple forms of discrimination, including racism and class discrimination, among others.

Learning objectives:

By the end of the course, the students will be able to:

- Understand and analyze diverse forms, manifestations and contexts of gender-based violence from an intersectional and human rights perspective
- Understand the historical evolution in International Human Rights Law and International Criminal Law to recognize gender-based violence as a human rights violation and an international crime, and the State's obligations towards the eradication of such violence
- Analyze and compare diverse universal and regional instruments and mechanisms -at the UN level and at the Inter-American, European and African levels- addressing gender-based violence against women and LGBTIQ+ people, and how they have been used by survivors, activists and civil movements from diverse geographic and cultural contexts

Course workload: The course workload includes class discussions, readings, work in groups, and presentation of a teamwork assignment.

Teaching methodology: The course will include lectures as well as classroom discussions and debates, case studies, readings and readings' presentations, as well as group research and student's presentations on concrete cases and practical use of international mechanisms.

Assessment criteria:

- Midterm exam (essay): 20%
- Teamwork research paper: 20%
- Team work presentation: 20%
- Final exam (essay): 20%
- Class participation: 20%

Absence policy

After the add/drop, all registrations are considered final and **BaPIS Absence Policy** begins to apply. For the academic year 2021-2022, such policy is as follows:

Attending class is mandatory and will be monitored daily by professors. Missing classes will impact on the student's final grade as follows:

Absences	Penalization
<i>Up to two (2) absences</i>	<i>No penalization</i>
<i>Three (3) absences</i>	<i>1 point subtracted from final grade (on a 10 point scale)</i>
<i>Four (4) absences</i>	<i>2 points subtracted from final grade (on a 10 point scale)</i>
<i>Five (5) absences or more</i>	<i>The student receives an INCOMPLETE ("NO PRESENTADO") for the course</i>

*The BaPIS attendance policy **does not distinguish between justified or unjustified absences.** The student is deemed responsible to manage his/her absences.*

Only absences for medical reasons will be considered justified absences. The student is deemed responsible to provide the necessary documentation.

Other emergency situations will be analyzed on a case by case basis by the Academic Director of the BaPIS.

The Instructor, the Academic Director and the Study Abroad Office should be informed asap by email without any delay.

Classroom norms:

- No food is permitted in class.
- Students will have a ten-minute break after one- hour session.

Schedule

As a general rule, there will be 2 sessions per week. However, two weeks will have three sessions (final schedule to be informed).

Session 1

1. What is gender-based violence?

- Social understanding of GBV today
- Historic and conceptual evolution: gender, discrimination, bias and violence
- Types, forms and contexts of GBV and their implications

Reading:

Scott, J. (2010) Gender: Still a Useful Category of Analysis? *Diogenes* 225: 7–14

Session 2

- Sexual and gender-based violence
- What makes violence 'sexual'?

Reading:

Women's Initiatives for Gender Justice (2019) Civil Society Declaration on Sexual Violence, of *The Hague Principles on Sexual Violence*.

Session 3

- Gender-based violence against women, girls and LGBTIQ people: forms and contexts
- Importance of an intersectional approach to gender-based violence

Reading:

Creek, S. J. and Dunn, J. (2014) Intersectionality and the study of sex, gender and crime. In: Gartner, R. and McCarthy, B. *The Oxford Handbook of Gender, Sex, and Crime*, New York : Oxford University Press, pp. 40-58.

Session 4

2. The path to understand GBV as a human rights violation

- What a 'human rights violation' means?
- International human rights obligations of the states
- The 1979 Convention on the Elimination of All Forms of Discrimination against Women and the absence of gender-based violence

Reading:

Kelly, L., & Westmorland, N. (2016). Naming and Defining 'Domestic Violence': Lessons from Research with Violent Men. *Feminist Review*, 112(1), 113–127.

Session 5

- Feminist critique and engagement with the International Human Rights system
- CEDAW Committee General Recommendations and UN World Conferences on Women

Reading:

Facio, A. (2018) Women's Human Rights on the World Stage. *Canadian Woman Studies*, Volume 33, Numbers 1,2 pp. 6-18

Session 6

- The Yogyakarta Principles and LGBTIQ+ people rights

Reading:

O'Flaherty, M.; Fisher, J. (2008) Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles *Human Rights Law Review* Volume: 8 Issue 2 (2008)

Session 7

3. Instruments and mechanisms to address GVB at the UN System

- CEDAW Convention
- The CEDAW Committee and GBVAW
- State's periodic reports and recommendations and the role of civil society organizations (Shadow Reports)

Reading:

A chosen *shadow report* to a State party official report to CEDAW in any country (in the last 5 years), retrieved from the OHCHR website.

Session 8

- CEDAW's Inquiry procedures in cases of serious, grave or systematic violations: The Inquiry concerning Canada with regard to missing and murdered aboriginal women

Reading:

Committee on the Elimination of Discrimination against Women (2015) *Report of the inquiry concerning Canada* CEDAW/C/OP.8/CAN/1

Session 9

- CEDAW's Jurisprudence on GBVAW
- Procedure and case studies

Reading:

Cusack, S. and Timmer, A. (2011) Gender Stereotyping in Rape Cases: The CEDAW Committee's Decision in *Vertido v The Philippines*, *Human Rights Law Review* Volume 11, Issue 2, June 2011, Pages 329–342

Session 10

- CEDAW's Committee General Recommendations
- UN Special Rapporteur on violence against women, its causes and consequences

Reading:

UN Special Rapporteur on violence against women, its causes and consequences (2018) *Online violence against women and girls from a human rights perspective* A/HRC/38/47

Session 11

- UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity

Reading:

UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (2018) *Protection against violence and discrimination based on sexual orientation and gender identity A/73/152*

Session 12

- The role of other UN Treaty bodies and Special Procedures: Torture and gender (1)

Reading:

UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2016) *Gender perspectives on torture and other cruel, inhuman and degrading treatment or punishment A/HRC/31/57*

Session 13

Midterm exam

Session 14

- The role of other UN Treaty bodies and Special Procedures: Torture and gender (2)

Reading:

UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2020) *"Psychological torture" under human rights law A/HRC/43/49*

Session 15

4. Instruments and mechanisms to address GVB at regional human rights systems

- The Inter-American System of Human Rights: The Commission and the Court
- The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará)
- Inter-American jurisprudence on GBV

Reading:

Patterson, E. (2016). Reconciling indigenous peoples with the judicial process: An examination of the recent genocide and sexual slavery trials in Guatemala and their integration of Mayan culture and customs. *Revue Quebécoise de Droit International*, 29(2), 225-252.

Session 16

- The European System of Human Rights
- The European Convention on Human Rights
- The European Court of Human Rights (ECHR)
- ECHR Jurisprudence on GBV

Reading:

Spijkerboer, T. (2018) Gender, Sexuality, Asylum and European Human Rights. *Law Critique* (2018) 29:221–239

Session 17

- The Council of Europe Convention on preventing and combating violence against women and domestic violence

- GREVIO – Group of Experts on Action against Violence against Women and Domestic Violence

Reading:

Peroni, L. (2016). Violence Against Migrant Women: The Istanbul Convention Through a Postcolonial Feminist Lens. *Feminist Legal Studies* 24, 49–67 (2016).

Session 18

- The African System of Human Rights
- Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol)
- African Union human rights bodies

Reading:

Durojaye, E. (2018) Involuntary Sterilisation as a Form of Violence against Women in Africa. *Journal of Asian and African Studies*, Vol. 53(5) 721–732

Session 19

5. GBV as international crimes

- Historic evolution
- Jurisprudence of the International Ad Hoc Tribunals for Ruanda and Former Yugoslavia

Reading:

Min, P. G. (2003) Korean "Comfort Women": The Intersection of Colonial Power, Gender, and Class. *Gender and Society*, Dec., 2003, Vol. 17, No. 6 (Dec., 2003), pp. 938-957

Session 20

- The adoption of the Rome Statute of the International Criminal Court
- Substantive and procedural aspects relevant to GBV

Reading:

Aroussi, S. (2017). Women, Peace, and Security and the DRC: Time to Rethink Wartime Sexual Violence as Gender-Based Violence? *Politics & Gender*, 13(3), 488-515

Session 21

- The adoption of the Rome Statute of the International Criminal Court
- Substantive and procedural aspects relevant to GBV
- Challenges in GBV cases decided by the ICC

Reading:

Chappell, L.; Inder, B. (2014). Advocating for International Gender Justice, *International Feminist Journal of Politics*; Dec 2014, Vol. 16 Issue 4, p 655-664

Session 22

Final Exam

Last revision: April 2021



Required readings

- Aroussi, S. (2017). Women, Peace, and Security and the DRC: Time to Rethink Wartime Sexual Violence as Gender-Based Violence? *Politics & Gender*, 13(3), 488-515
- Chappell, L.; Inder, B. (2014) "Advocating for International Gender Justice." *International Feminist Journal of Politics*; Dec 2014, Vol. 16 Issue 4, p 655-664
- Creek, S. J. and Dunn, J. (2014) Intersectionality and the study of sex, gender and crime. In: Gartner, R. and McCarthy, B. *The Oxford Handbook of Gender, Sex, and Crime*, New York : Oxford University Press, pp. 40-58.
- Committee on the Elimination of Discrimination against Women (2015) *Report of the inquiry concerning Canada (with regard to missing and murdered aboriginal women)*, CEDAW/C/OP.8/CAN/1
- Cusack, S. and Timmer, A. (2011) Gender Stereotyping in Rape Cases: The CEDAW Committee's Decision in *Vertido v The Philippines*, *Human Rights Law Review* Volume 11, Issue 2, June 2011, Pages 329–342
- De Brouwer, A.-M. (2009). What the International Criminal Court has Achieved and can Achieve for Victims/Survivors of Sexual Violence. *International Review of Victimology*, 16(2), 183–209
- Durojaye, E. (2018) Involuntary Sterilisation as a Form of Violence against Women in Africa. *Journal of Asian and African Studies*, Vol. 53(5) 721–732
- Facio, A. (2018) Women's Human Rights on the World Stage *Canadian Woman Studies* Volume 33, Numbers 1,2 pp. 6-18
- Kelly, L., & Westmorland, N. (2016). Naming and Defining 'Domestic Violence': Lessons from Research with Violent Men. *Feminist Review*, 112(1), 113–127
- Min, P. G. (2003 Korean "Comfort Women": The Intersection of Colonial Power, Gender, and Class. *Gender and Society*, Dec., 2003, Vol. 17, No. 6 (Dec., 2003), pp. 938-957
- Scott, J. (2010) Gender: Still a Useful Category of Analysis? *Diogenes* 225: 7–14
- O'Flaherty, M.; Fisher, J. (2008) Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles *Human Rights Law Review* Volume: 8 Issue 2
- Patterson, E. (2016). Reconciling indigenous peoples with the judicial process: An examination of the recent genocide and sexual slavery trials in Guatemala and their integration of Mayan culture and customs. *Revue Quebécoise de Droit International*, 29(2), 225-252.
- Peroni, L. (2016) Violence Against Migrant Women: The Istanbul Convention Through a Postcolonial Feminist Lens. *Fem Leg Stud* 24, 49–67
- Spijkerboer, T. (2018) Gender, Sexuality, Asylum and European Human Rights. *Law Critique* 29:221–239
- UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (2018) *Protection against violence and discrimination based on sexual orientation and gender identity* A/73/152

UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2016) *Gender perspectives on torture and other cruel, inhuman and degrading treatment or punishment* A/HRC/31/57

UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (2020) *“Psychological torture” under human rights law* A/HRC/43/49

UN Special Rapporteur on violence against women, its causes and consequences (2018) *Online violence against women and girls from a human rights perspective* A/HRC/38/47

Recommended bibliography

Byrnes, A.; Emerton, R.; Adams, K.; Connors, J. (2005) *International Women’s Rights Cases – Women’s Human Rights: Leading International and National Cases*, 1st, Cavendish Publishing, London

Chinkin, C.; Charlesworth, H. (2006) “Building Women into Peace: The International Legal Framework.” *Third World Quarterly*. 27(5):937-957 Routledge Publishing.

Edwards, A. (2010). *Violence against Women under International Human Rights Law*. Cambridge: Cambridge University Press.

Fredman, S. (2018) *Comparative Human Rights Law* Oxford: Oxford University Press.

Freeman, M.; Chinkin, C. and Rudolf, B. (Eds.). (2012) *The UN Convention on the Elimination of All Forms of Discrimination Against Women. A Commentary*. Oxford: Oxford University Press.

Hellum, A., & Aasen, H. (Eds.). (2013). *Women’s Human Rights: CEDAW in International, Regional and National Law* (Studies on Human Rights Conventions). Cambridge: Cambridge University Press.

McIntosh Sundstrom, L.; Sperling, V. and Sayoglu, M. (2019) *Courting Gender Justice. Russia, Turkey, and the European Court of Human Rights*. Oxford: Oxford University Press.

Merry, S. (2003) “Constructing a Global Law-Violence against Women and the Human Rights System.” *Law & Social Inquiry*. 28(4):941-977 University of Chicago Press.

Montoya, C. (2009). “International Initiative and Domestic Reforms: European Union Efforts to Combat Violence against Women.” *Politics & Gender*, 5(3), 325-348.

Mowbray, A. (2012) *Cases, Materials, and Commentary on the European Convention on Human Rights*. Third Edition. Oxford: Oxford University Press.

Ní Aoláin, F.; Cahn, N.; Haynes, D. and Valji, N. (2018) *The Oxford handbook of gender and conflict*. Oxford: Oxford University Press.

O’Flaherty, M.; Fisher, J. (2008) Sexual Orientation, Gender Identity and International Human Rights Law: Contextualising the Yogyakarta Principles *Human Rights Law Review* Volume: 8 Issue 2 (2008)

Šimonović, D. (2014). “Global and Regional Standards on Violence Against Women: The Evolution and Synergy of the CEDAW and Istanbul Conventions” *Human Rights Quarterly*. 36(3):590-606.

Sosa, L. (2017). *Intersectionality in the Human Rights Legal Framework on Violence against Women: At the Centre or the Margins?* Cambridge: Cambridge University Press.

Swaine, A. (2018). *Conflict-Related Violence against Women: Transforming Transition*. Cambridge: Cambridge University Press.

Wagner, M. (2003) "Belem Do Para: Moving toward Eradicating Domestic Violence in Mexico." (Comment) *Penn State International Law Review* 22 issue 2